

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Robert E. Click

Application No.: 10/516,640

Filing Date: December 1, 2004

Title: NOVEL BACTERIUM FOR THE TREATMENT OF DISEASE

Group Art Unit/Examiner: 1651/Sheridan R. Macauley

Attorney Docket No.: Formerly: 082734-0113

**PETITION TO THE DIRECTOR UNDER 37 C.F.R. 1.181(a) REQUESTING
WITHDRAWAL OF THE HOLDING OF ABANDONMENT**

Submitted via EFS

Applicant hereby petitions the Director of Technology Center 1600 under 37 CFR 1.181(a) to withdraw the holding of abandonment based on failure of the Applicant and/or Applicant's representative to receive the Office Action dated June 18, 2008 (and/or failure of the Office to properly reflect the change in correspondence address as noted below).

The application is believed to be abandoned. The last action, a Requirement for Restriction, mailed June 18, 2008, set a response period, with extensions of time, of six (6) months. The response deadline therefore was December 18, 2008. No response was submitted by that date. A Notice of Abandonment was mailed on January 6, 2009.

Applicant did not receive the Office Action mailed June 18, 2008 nor the Notice of Abandonment mailed January 6, 2009. Applicant's representative, Anthony J. Bourget, states that neither he nor his office received the Office Action mailed June 18, 2008 or the Notice of Abandonment mailed January 6, 2009. On May 4, 2007, Applicant's then representative, having Customer Number 23524, filed a Request for Withdrawal as Attorney or Agent, which directed

all future correspondence to Applicant, Dr. Robert E. Click, at Paralab, LLC, N8693 1250 Street, River Falls, Wisconsin 54022. On September 22, 2007, the Assignee of the entire interest submitted a Power of Attorney and Correspondence Address Indication Form appointing power of attorney to Anthony J. Bourget and attorneys associated with Customer Number 26365. The address associated with Customer Number is P.O. Box 81, Eau Claire, WI 54702-0081; however, the Requirement for Restriction mailed June 18, 2008, was sent to Foley & Lardner LLP at 150 East Gilman Street, P.O. Box 1497, Madison, WI 53701-1497.

The U.S. Patent and Trademark Office mistakenly sent the Requirement for Restriction to the wrong correspondence address and/or failed to appropriately change the correspondence address on at least two occasions. Particularly, the Office failed to change the correspondence address upon the filing of the Request for Withdrawal of May 4, 2007, and failed to change the correspondence address upon the filing of the Power of Attorney and Correspondence Address Indication Form dated September 6, 2007 (filed September 22, 2007).

Applicant's representative associated with Customer Number 26365 never received the Requirement for Restriction since it was sent to the wrong address. Further, the undersigned represents his office has not received any mail from Foley & Lardner LLP at 150 East Gilman Street, P.O. Box 1497, Madison, WI 53701-0081 since at least June 1, 2008. Yet further, the Office action was not received at the correspondence address of record (which should have been associated with Customer Number 26365), and a search of Applicant's representative's records, including any docketing system, jacket or the equivalent, and the application contents, indicates that the Requirement for Restriction was not received.

Applicant respectfully requests this petition be granted and that the application be revived as pending because Applicant and/or its representative never received the Requirement

for Restriction. The Office should mail a new Request for Restriction in view of the foregoing, and set a new time for responding to the same.

Applicant respectfully contends, for the purposes of this Petition, that the application is not in fact abandoned, and/or due to errors of the Office, that this petition does not require a fee.

The undersigned believes no fee is due for this filing, however the Commissioner is hereby authorized to charge any fee for this filing to Deposit Account No. 50-1660.

If not done so already, please recognize and/or change the correspondence address for this application to the address associated with **Customer Number 26365**.

Respectfully submitted,

/anthony j. bourget/
Anthony J. Bourget.
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Date: January 21, 2009

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